

1-1 By: Hegar S.B. No. 1811  
 1-2 (In the Senate - Filed March 8, 2013; March 25, 2013, read  
 1-3 first time and referred to Committee on Natural Resources;  
 1-4 April 4, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 10, Nays 0; April 4, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1811 By: Hegar

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the Fort Bend Subsidence District.  
 1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-25 SECTION 1. Section 8834.001, Special District Local Laws  
 1-26 Code, is amended by amending Subdivision (1) and adding  
 1-27 Subdivisions (1-a), (1-b), (4-a), (5-a), (5-b), (5-c), (7-a), and  
 1-28 (8-a) to read as follows:  
 1-29 (1) "Agricultural crop":  
 1-30 (A) means food or fiber commodities that are  
 1-31 grown for resale or commercial purposes and that are to be used for  
 1-32 food, clothing, or animal feed; and  
 1-33 (B) includes nursery products and florist items  
 1-34 that are in the possession of a nursery grower.  
 1-35 (1-a) "Alternative water supply" means any water  
 1-36 source other than groundwater withdrawn inside the district, and  
 1-37 may include any water supplied through an approved groundwater  
 1-38 reduction plan.  
 1-39 (1-b) "Beneficial use" means any use that is useful or  
 1-40 beneficial to the user, including:  
 1-41 (A) an agricultural, gardening, domestic, stock  
 1-42 raising, municipal, mining, manufacturing, industrial, commercial,  
 1-43 or recreational use, or a use for pleasure purposes; or  
 1-44 (B) exploring for, producing, handling, or  
 1-45 treating oil, gas, sulfur, or other minerals.  
 1-46 (4-a) "Florist item" means a cut flower, a potted  
 1-47 plant, a blooming plant, an inside foliage plant, a bedding plant, a  
 1-48 corsage flower, cut foliage, a floral decoration, or live  
 1-49 decorative material.  
 1-50 (5-a) "Nursery grower" means a person who grows in any  
 1-51 medium more than 50 percent of the nursery products or florist items  
 1-52 that the person sells or leases. A person grows a nursery product  
 1-53 or florist item if the person cultivates or propagates the product  
 1-54 or item by engaging in activities associated with the production or  
 1-55 multiplying of stock, including the development of new plants from  
 1-56 cuttings, grafts, plugs, or seedlings. The term does not include a  
 1-57 person who merely holds or maintains a nursery product or florist  
 1-58 item before sale or lease.  
 1-59 (5-b) "Nursery product" includes a tree, shrub, vine,  
 1-60 cutting, graft, scion, grass, bulb, or bud that is grown or kept

2-1 for, or capable of, propagation and distribution for sale or lease.  
2-2 (5-c) "Regional water supplier" means a political  
2-3 subdivision of this state that has:

2-4 (A) the authority to conserve, store, transport,  
2-5 treat, distribute, sell, and deliver water to any person; and

2-6 (B) an approved groundwater reduction plan.

2-7 (7-a) "Water conservation" means a measure that seeks  
2-8 to make a water supply available for alternative or future use. The  
2-9 term includes best management practices, improved efficiency or  
2-10 accountability, recycling, reuse, pollution prevention, and  
2-11 reduction in consumption, loss, or waste.

2-12 (8-a) "Well owner" means a person who has an ownership  
2-13 interest in a well, operates a well, owns land on which a well is  
2-14 located, or owns the water withdrawn or to be withdrawn from a well.

2-15 SECTION 2. Section 8834.006, Special District Local Laws  
2-16 Code, is amended to read as follows:

2-17 Sec. 8834.006. CERTAIN OTHER STATUTES INAPPLICABLE.

2-18 (a) Other laws governing the administration or operation of a  
2-19 conservation and reclamation district created under Section 52,  
2-20 Article III, or Section 59, Article XVI, Texas Constitution,  
2-21 including Chapters 36 and 49, Water Code, do not apply to the  
2-22 district.

2-23 (b) Notwithstanding Section 36.052, Water Code, this  
2-24 chapter prevails over any other law in conflict or inconsistent  
2-25 with this chapter.

2-26 SECTION 3. Section 8834.055, Special District Local Laws  
2-27 Code, is amended by amending Subsections (a) and (c) and adding  
2-28 Subsection (d) to read as follows:

2-29 (a) Each year, at the first meeting after the new directors  
2-30 take office, the directors shall select a chair [~~president~~], a vice  
2-31 chair [~~president~~], and a secretary.

2-32 (c) The chair [~~president~~] shall preside over meetings of the  
2-33 board. If the chair [~~president~~] is not present, the vice chair  
2-34 [~~president~~] shall preside.

2-35 (d) The secretary shall ensure that all records and books of  
2-36 the district are properly kept and attest to the chair's signature  
2-37 on all documents. The board may authorize another director, the  
2-38 general manager, or any employee or contractor to execute documents  
2-39 on behalf of the district and to certify the authenticity of any  
2-40 record of the district.

2-41 SECTION 4. Section 8834.056, Special District Local Laws  
2-42 Code, is amended to read as follows:

2-43 Sec. 8834.056. MEETINGS. (a) The board shall hold [~~one~~]  
2-44 regular meetings [~~meeting each month~~] at a time set by the board.

2-45 (b) The board may hold a special meeting at the call of the  
2-46 chair [~~president~~] or on the written request of at least three  
2-47 directors.

2-48 SECTION 5. Subsection (b), Section 8834.057, Special  
2-49 District Local Laws Code, is amended to read as follows:

2-50 (b) A meeting of a committee of the board is not subject to  
2-51 Chapter 551, Government Code, if less than a quorum of the board is  
2-52 present at the meeting.

2-53 SECTION 6. Subsection (a), Section 8834.104, Special  
2-54 District Local Laws Code, is amended to read as follows:

2-55 (a) The [~~Before March 31 of each year, the~~] board shall hold  
2-56 an annual [~~a~~] hearing to determine the effects during the preceding  
2-57 calendar year of groundwater withdrawal on subsidence in the  
2-58 district.

2-59 SECTION 7. Section 8834.115, Special District Local Laws  
2-60 Code, is amended to read as follows:

2-61 Sec. 8834.115. NOTICE OF HEARINGS. (a) Not later than the  
2-62 10th day before the date set for a hearing other than a permit  
2-63 application hearing, the district shall deliver or mail notice of  
2-64 the hearing to:

2-65 (1) each county, regional water supplier, and  
2-66 municipal government in the district; and

2-67 (2) each person that the board considers to have an  
2-68 interest in the subject matter of the hearing.

2-69 (b) Not later than the 10th day before the date set for a

3-1 hearing, the district shall:

3-2 (1) publish notice of the hearing once in a newspaper  
3-3 of general circulation in each county in the district; and

3-4 (2) provide a copy of the [post] notice of the hearing  
3-5 to the county clerk to be posted at the county courthouse of each  
3-6 county in the district in the place where notices are usually  
3-7 posted.

3-8 SECTION 8. Subchapter D, Chapter 8834, Special District  
3-9 Local Laws Code, is amended by adding Section 8834.158 to read as  
3-10 follows:

3-11 Sec. 8834.158. INVESTMENT OFFICER. (a) Notwithstanding  
3-12 Section 2256.005(f), Government Code, the board may contract with a  
3-13 person to act as investment officer of the district.

3-14 (b) The investment officer shall:

3-15 (1) not later than the first anniversary of the date  
3-16 the officer takes office or assumes the officer's duties, attend a  
3-17 training session of at least six hours of instruction relating to  
3-18 investment responsibilities under Chapter 2256, Government Code;  
3-19 and

3-20 (2) attend at least four hours of additional  
3-21 investment training within each two-year period after the first  
3-22 year.

3-23 (c) Training under this section must be from an independent  
3-24 source approved by:

3-25 (1) the board; or

3-26 (2) a designated investment committee advising the  
3-27 investment officer.

3-28 (d) Training under this section must include education in  
3-29 investment controls, security risks, strategy risks, market risks,  
3-30 diversification of investment portfolio, and compliance with  
3-31 Chapter 2256, Government Code.

3-32 SECTION 9. Section 8834.201, Special District Local Laws  
3-33 Code, is amended to read as follows:

3-34 Sec. 8834.201. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD  
3-35 RULE. (a) Groundwater withdrawals governed by this chapter,  
3-36 including withdrawals of injected water, are subject to reasonable  
3-37 board rules and orders.

3-38 (b) The board may issue permits to drill new wells and by  
3-39 rule may provide exemptions from the permit requirements. The  
3-40 district shall grant a permit to drill and operate a new well inside  
3-41 a platted subdivision if water service from a retail public utility  
3-42 is not available to the lot where the well is to be located.

3-43 (c) In this section, "retail public utility" has the meaning  
3-44 assigned by Section 13.002, Water Code.

3-45 SECTION 10. Section 8834.202, Special District Local Laws  
3-46 Code, is amended to read as follows:

3-47 Sec. 8834.202. CERTAIN GROUNDWATER USES ~~[WELLS]~~ EXEMPT.  
3-48 The permit requirements of this ~~[This]~~ chapter do ~~[does]~~ not apply  
3-49 to:

3-50 (1) a well regulated under Chapter 27, Water Code;

3-51 (2) a well that:

3-52 (A) has a casing with an inside diameter of not  
3-53 more than five inches; and

3-54 (B) serves only a single-family dwelling; or

3-55 (3) a shallow well that:

3-56 (A) is not used to provide water for:

3-57 (i) human consumption;

3-58 (ii) agriculture;

3-59 (iii) manufacturing or industry; or

3-60 (iv) water injection; and

3-61 (B) withdraws water solely:

3-62 (i) to prevent hazardous sand boils,  
3-63 dewater surface construction sites, or relieve hydrostatic uplift  
3-64 on permanent structures;

3-65 (ii) for groundwater quality analysis and  
3-66 for monitoring migration of subsurface contaminants or pollution;  
3-67 or

3-68 (iii) for recovery of contamination or  
3-69 pollution.

4-1 SECTION 11. Subsections (a) and (c), Section 8834.206,  
4-2 Special District Local Laws Code, are amended to read as follows:

4-3 (a) A well ~~[The]~~ owner ~~[of a well located in the district]~~  
4-4 must obtain a permit from the board before:

- 4-5 (1) drilling, equipping, or completing the well;
- 4-6 (2) substantially altering the size of the well or a  
4-7 well pump; or
- 4-8 (3) operating the well.

4-9 (c) A well ~~[An]~~ owner ~~[or operator]~~ commits a violation if  
4-10 the well owner ~~[or operator]~~ does not obtain a permit as required by  
4-11 Subsection (a). A violation occurs on the first day the drilling,  
4-12 equipping, completing, altering, or operation begins. Each day  
4-13 that a violation continues is a separate violation.

4-14 SECTION 12. Subsection (c), Section 8834.209, Special  
4-15 District Local Laws Code, is amended to read as follows:

4-16 (c) The board shall issue a permit to an applicant if the  
4-17 board finds on sufficient evidence that:

4-18 (1) there is no other adequate and available  
4-19 substitute or supplemental source of alternative ~~[surface]~~ water  
4-20 supplies at prices competitive with the prices charged by suppliers  
4-21 of alternative ~~[surface]~~ water supplies in the district; and

4-22 (2) compliance with any provision of this chapter or  
4-23 any district rule will result in an arbitrary taking of property or  
4-24 in the practical closing and elimination of any lawful business,  
4-25 occupation, or activity without sufficient corresponding benefit  
4-26 or advantage to the public.

4-27 SECTION 13. Section 8834.214, Special District Local Laws  
4-28 Code, is amended to read as follows:

4-29 Sec. 8834.214. ANNUAL REPORT. (a) Before January 31 each  
4-30 year, a well owner who is required to hold ~~[holds]~~ a permit under  
4-31 this chapter shall submit to the board a report stating:

- 4-32 (1) the well owner's name;
- 4-33 (2) the location of the well;
- 4-34 (3) the total amount of groundwater withdrawn from the  
4-35 well during the preceding calendar year ~~[12-month period]~~;
- 4-36 (4) the total amount of groundwater withdrawn from the  
4-37 well during each month of the preceding calendar year ~~[12-month~~  
4-38 ~~period]~~;
- 4-39 (5) the purpose for which the groundwater was used;

4-40 and  
4-41 (6) any other information required by the board that  
4-42 the board considers necessary for the board to control and prevent  
4-43 subsidence in the district.

4-44 (b) A well owner whose well is aggregated with other wells  
4-45 permitted and managed by a regional water supplier shall file the  
4-46 report required by Subsection (a) with the regional water supplier  
4-47 instead of the district. A regional water supplier shall submit to  
4-48 the board the report required by Subsection (a) for all wells owned,  
4-49 managed, or permitted by that supplier not later than March 31 of  
4-50 each year.

4-51 SECTION 14. An investment officer for the Fort Bend  
4-52 Subsidence District who holds that office on the effective date of  
4-53 this Act must attend the training required by Subdivision (1),  
4-54 Subsection (b), Section 8834.158, Special District Local Laws Code,  
4-55 as added by this Act, not later than the first anniversary of the  
4-56 effective date of this Act unless that person has already taken the  
4-57 training during the previous calendar year.

4-58 SECTION 15. This Act takes effect immediately if it  
4-59 receives a vote of two-thirds of all the members elected to each  
4-60 house, as provided by Section 39, Article III, Texas Constitution.  
4-61 If this Act does not receive the vote necessary for immediate  
4-62 effect, this Act takes effect September 1, 2013.

4-63 \* \* \* \* \*